

OBSERVATIONS

upon some of his Majesties late *Answers and Expresses.*

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Parker, Henry, 1604-52



IN this contestation betwene Regall and Parliamentary power, for methods sake it is requisite to consider first of Regall, then of Parliamentary Power, and in both to consider the efficient, and final causes; and the meanes by which they are supported. *The King attributeth the originall of his royalty to God, and the Law, making no mention of the grant, consent, or trust of man therein,* but the truth is, God is no more the author of Regall, then of Aristocraticall power, nor of Supremacy, then of subordinate command; nay, that dominion which is usurped, and not just, yet whilst it remaines dominion, and till it be legally againe devested, referres to God, as to its Author and donor, as much as that which is hereditary. *And that Law which the King mentioneth, is not to be understood to be any speciall ordinance sent from heaven by the ministry of Angels or Prophets (as amongst the Jewes it sometimes was)* It can be nothing else amongst Christians, but the Pactions and agreements of such and such politique corporations. Power is originally inherent in the People, and it is nothing else, but that might and vigour which such or such a societie of men containes in it selfe, and when by such or such a Law of common consent and agreement, it is derived into such and such hands, God confirms that Law: and so man is the free and voluntary Author, the Law is the Instrument, and God is the establisher of both. And we see, not that Prince which is the most potent over his subjects, but that Prince which is most Potent in his subjects, is indeed most truly potent; for a King of one small City, if he be intrusted with a large Prerogative, may be sayd to be more Potent over his subjects, then a King of many great Regions, whose prerogative is more limited: and yet the true realitie of power, that King is most great & glorious, which hath the most and strongest subjects, and not he which tramples upon the most contemptible vassells. This is therefore a great and fond error in some Princes to strive more to be great over their people, then in their people; and to eclipse themselves by impoverishing, rather then to magnifie themselves by enfranchising their Subjects. This we see in France at this day, for were the Peasants there more free, they would be more rich and magnanimous, and were they so, their King were more puissant; but now by affecting an adulterate power over his Subjects, the King there loses a true power.

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Gen. Co. - 31 October 1903 - Pickens + Chatter

in his Subjects, imbracing a cloud in stead of *Juno*. But thus we see that power is but secondary and derivative in Princes, the fountaine and efficient cause is the people, and from hence the inference is just, the King, though he be *singulis Major*, yet he is *universis minor*; for if the people be the true efficient cause of power, it is a rule in nature, *quicquid efficit tale, est magis tale*. And hence it appears that at the founding of authorities, when the consent of societies conveys rule into such and such hands, it may ordaine what conditions, and prefix what bounds it pleases, and that no dissolution ought to be thereof but by the same power by which it had its constitution.

As for the finall cause of Regall Authoritie, I doe not find any thing in the Kings papers denying, that the same people is the finall which is the efficient cause of it; and indeed it were strange if the people in subjecting it selfe to command, should ayme at any thing, but its owne good in the first place. This true according to Machiavels politicks. *Princes ought to ayme at greatnesse, not in, but over their Subjects, and for the achieving of the same, they ought to propose to themselves, no greater good then the spoyling and breaking the spirits of their subjects, nor no greater mischief, then common freedome, neither ought they to promote and cherish any servants but such as are most fit for rapine and oppression, nor depreesse and persecute any as enemies, but such as are gracious with the populacy for noble and gallant Acts.*

To be *deliciae humani generis*, is growne fordid with Princes, to be publike torments and carnificines, and to plot against those Subjects whom by nature they ought to protect, is held *Cesar-like*, and therefore bloudy *Borgias* by meere cruelty and treachery hath gotten roome in the Calender of witty, and of spirited *Heroes*. And our English Court of late yeares hath drunke too much of this State poyson, for either we have seene favorites rayfed to poll the people, and razed againe to pacifie the people; or else (which is worse for the King and people too) we have seene engines of mischief preserved against the people, and upheld against Law, merely that mischief might not want encouragement. *But our King here, doth acknowledge it the great businesse of his Coronation oath to protect us:* And I hope under this word *protect* he intends not onely to shield us from all kind of evill, but to promote us also to all kind of Politicall happinesse according to his utmost devoyre and I hope he holds himselfe bound thereunto, not onely by his oath, but also by his very Office, and by the end of his Sovereigne dignitie. And though all single persons ought to looke upon the late Bills passed by the King as matters of Grace with all thankfulness and humility, yet the King himselfe, looking upon the whole State, ought to acknowledge that he cannot merit of it, and that whatsoever he hath granted, if it be for the prosperity of his people (but much more for their ease) it hath proceeded but from his meere dutie. If Ship-money, if the Star-Chamber, if the High Commission, if the Votes of Bishops and Popish Lords in the upper House, be inconsistent with the welfare of the Kingdome, not onely honour, but justice it selfe challenges that they be abolisht; the King ought not to account that a profit or strength to him, which is a losse and wasting to the people, nor ought he to thinke that perishe to him, which is gained to the people: The word grace sounds better in the peoples mouthes then in his, his dignitie was erected to preserve the Commonalty in the Commonalty was not created for his service; and that which is the end is

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farre more honourable and valuable in nature and policy, then that which is the means. This directs us then to the transcendent *ex^{ra}* of all Politiques, to the Paramount Law that shall give Law to all humane Lawes whatsoever, and that is *Salus Populi*: The Law of Prerogative it selfe, is subservient to this Law, and were it not conducing thereunto, it were not necessary nor expedient. Neither can the right of conquest be pleaded to acquit Princes of that which is due to the people as the Authors, or ends of all power? for meere force cannot alter the course of nature, or frustrate the tenour of Law; and if it could, there were more reason, why the people might justifie force to regaine due libertie, then the Prince might to subvert the same. And tis a shamefull stupidity in any man to thinke, that our Ancestors did not fight more nobly for their free Customes and Lawes, of which the conqueror and his successors had in part dis-inherited them by violence and perjury, then they which put them to such conflicts; for it seemes unnaturall to me, that any Nation should be bound to contribute its owne inherent puissance, meere to abet Tiranny and support slavery: and to make that which is more excellent, a prey to that which is of lesse worth. And questionlesse a native Prince, if meere Force be right, may disfranchise his Subjects as well as a stranger, if he can frame a sufficient party, and yet we see this was the foolish sinne of *Rehoboam*, who having deserted and rejected out of an intollerable insolence, the strength of ten tribes, ridiculously fought to reduce them againe with the strength of two. I come now from the cause, which conveyes Royalty, and that for which it is conveyed, to the nature of the conveyance. The word *Trust* is frequent in the Kings Papers, and therefore I conceive the King does admit that his interest in the Crowne is not absolute, or by a meere donation of the people, but in part conditionate and fiduciary. And indeed all good Princes without any expresse contract betwixt them and their Subjects, have acknowledged that there did lie a great and high trust upon them; nay, Heathen Princes that have beene absolute, have acknowledged themselves servants to the publick, and borne for that service, and professed that they would manage the publicke weale, as being well satisfied *populi Rem esse, non suam*. And we cannot imagine in the fury of warre, (when Lawes have the least vigour) that any *Generalissimo* can be so uncircumscribed in power, but that if he should turne his Cannons upon his owne Souldiers, they were *ipso facto* absolved of all obedience, and of all oathes and tyes of allegiance whatsoever for that time; and bound by higher dutie, to seeke their owne preservation by resistance and defence: wherefore if there be such tacite trusts and reservations in all publicke commands, though of the most absolute nature, that can be supposed, we cannot but admit that in all well formed Monarchies, where kingly Prerogative hath no limits set, this must be one necessary condition, that the subject shall live both safe and free. The Charter of nature intitles all Subjects of all Countries whatsoever to safetie by its supream Law. But freedom indeed has divers degrees of latitude, and all Countries therein doe not participate alike, but positive Lawes must every where assigne those degrees. The great Charter of *England* is not strait in Priviledges to us, neither is the Kings oath of small strength to that Charter, for that though it be more precise in the case of Canonick Priviledges, and of Bishops and Clergy then *cas* having

beinge penned by Popish Bishops) then of the Commonalty, yet it confirms all Lawes and rightfull customes, amongst which we most highly esteeme Parliamentary Priviledges, and as for the word *Eligerit*, whether it be future, or past, it skills not much; for if by this oath, Law, Justice, and discretion be executed amongst us in all judgements (as well in, as out of Parliament) and if peace and godly agreement be intirely kept amongst us all, and if the King defend and uphold all our lawes and Customes, we need not feare but the King is bound to consent to new Lawes if they be necessary, as well as defend old: for both being of the same necessity, the publicke trust must needs equally extend to both; and wee conceive it one Parliamentary right and custome that nothing necessary ought to be denyed. And the word *Eligerit*, if it bee in the *perfect tense*, yet shewes that the peoples election had been the ground of ancient Lawes and Customes, and why the peoples election in Parliament should not bee now of as great moment as ever, I cannot discover.

That which results then from hence, is, if our Kings receive all royalty from the people, and for the behoofe of the people, and that by a speciall trust of safety and libertie expressly by the people limited and by their owne grants and oathes ratified, then our Kings cannot be said to have so unconditionate and high a proprietie in all our lives, liberties and possessions, or in any thing else to the Crowne appertaining, as we have in their dignitie, or in our selves, and indeed if they had, they were not borne for the people, but meerely for themselves, neither were it lawfull or naturall for them to expose their lives and fortunes for their Country, as they have bin hitherto bound to doe, according to that of our Saviour, *Bonus Pastor ponit vitam pro ovibus*. But now of Parliaments: Parliaments have the same efficient cause as Monarchies, if not higher, for in the truth, the whole Kingdome is not so properly the Author as the essence it selfe of Parliaments, and by the former rule 'tis *magis tale*, because we see *ipsum quid quod efficit tale*. And it is I thinke beyond all controversie, that God and the Law operate as the same causes, both in Kings and Parliaments, for God favours both, and the Law establishes both, and the act of men still concurs in the sustentation of both. And not to stay longer upon this, Parliaments have also the same finall cause as Monarchies, if not greater, for indeed publicke safetie and liberry could not be so effectually provided for by Monarchs till Parliaments were constituted, for the supplying of all defects in that Government.

Two things especially are aymed at in Parliaments, not to be attained to by other means. First, that the interest of the people might bee satisfied; secondly that Kings might be the better counsailed. In the summons of *Edw. the first* (*Clauſ. 7. m. 3. Dors.*) we see the first end of Parliaments expressed: for he inserts in the Writ, that whatloever affaire is of publicke concernment, ought to receive publick approbation, *Quod omnes tangit ab omnibus approbari debet, or vastari*. And in the same Writ he saith, this is *lex non summa, et provida circumſpectionis stabilita*, there is not a word here, but it is observable, publick approbation, consent, or treatie is necessary in all publick expedients, and this is not a meer usage in *England* but a Law, and this Law is not subject to any doubt or dispute, there is nothing more knowne, neither is this knowne Law extorted from Kings, by the violence and injustice of the people, it is duly and formally established, and that upon a great deale of reason, not without the providence

dence and circumspection of all the States. Were there no further Antiquity, but the Reigne of *Edward* the First to recommend this to us, certainly so, there ought no reverence to be withheld from it, for this Prince was wise, fortunate, just, and valiant beyond all his Predecessors, if not successors also, and therefore it is more glory to our freedoms, that as weake and peevish Princes had most opposed them, so that hee first repaired the breaches which the conquest had made upon them. And yet it is very probable that this Law was far ancients then his Reigne, and the words *lex stabilita & notissima* seems to intimate, that the Conquest it self, had never wholly buried this in the publick ruine and confusion of the State. It should seem at this time *Llewellyns* troubles in *Wales* were not quite suppressed, and the *French* King was upon a Designe to invade some pieces of ours in *France*, and therefore he sends out this summons *ad tractandum, ordinandum, & faciendum cum Prelatis Proceris & aliis incolis Regni*, for the prevention of these dangers: These words *tractandum, ordinandum, faciendum*, do fully prove that the people in those dayes were summoned *ad consensum*, as well as *ad concilium*, and this Law, *quod omnes tangit, &c.* shews the reason and ground upon which that consent and approbation is founded. It is true we finde in the Reigne of *Edward* the Third, that the Commons did desire that they might forbear counselling in things *de quibus ils n'ont pas cognizance*; the matters in debate were concerning some intestine commotions, the guarding of the Marches of *Scotland*, and the Seas; and therein they renounce not their right of consent, they onely excuse themselves in point of counsell, referring it rather to the King and his Counsell. How this shall derogate from Parliaments either in point of consent or counsell I doe not know, for at last they did give both, and the King would not be satisfied without them, and the passage evinces no more but this, that that King was very wise and Warlike, and had a very wise Counsell of Warre, so that in those particulars the Commons thought them most fit to be consulted, as perhaps the more knowing men.

Now upon a due comparing of these passages with some of the Kings late Papers, let the World judge whether Parliaments have not been of late much lesned and injured. The King in one of his late Answers, *Alleges that his Writs may reach the Lords and Commons the extent of their Commission and trust, which is to be Counsellors, not Commanders, and that not in all things, but in quibusdam arduis*, and the case of *Wentworth* is cited, who was by *Queen Elizabeth* committed (sitting the Parliament) for proposing that they might advise the *Queen* in some things, which she thought beyond their Cognizance, although *Wentworth* was then of the House of Commons.

And in other places *the King denies the Assembly of the Lords and Commons* when hee withdraws himselfe, to be rightly named a Parliament, or to have any power of any Court, and consequently to be any thing, but a meet convention of so many private men.

Many things are here asserted utterly destructive to the honour, right, and being of Parliaments. For first, because the Law had trusted the King with a Prerogative to discontinue Parliaments: therefore if he did discontinue Parliaments to the danger or prejudice of the Kingdome, this was no breach of that trust, because in formality of Law the people might not assemble in Parliament but by the Kings

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Writ, therefore in right and equity they were concluded also, so that if the King would not grant his Writ, when it was expedient, he did not prove unfaithfull, or doe any wrong to the people; for where no remedy is, there is no right.

This doctrine was mischievous to us when the King had a Prerogative to disuse Parliaments, and if it bee not now exploded and protested against, may yet be mischievous in the future dissolution of Parliaments, for that power still remainys in the Kings trust; and if to goe against the intent of trust be no wrong, because perhaps it is remediless, our Trienniall Parliaments may prove but of little service to us: *Secondly, when Parliaments are assembled, they have no Commission to Counsell but in such points as the King pleases to propose, if they make any transgression in other matters, they are lyable to imprisonment at the Kings pleasure, witnesse Wentworths Case.* A meer example (though of *Queen Elizabeth*) is no Law, for some of her actions were retracted, and yet without question *Queen Elizabeth* might do that which a Prince lesse beloved could never have done: There is a way by goodnesse and clemency for Princes to make themselves almost unlimitable, and this way *Queen Elizabeth* went, and without doubt had her goodnesse and Grace beene fained, she might have usurped an uncontrouleable arbitrary lawlesse Empire over us. The Sun sooner makes the travailour desert his Cloake then the winde; And the gracious Acts of soft Princes (such as *Tiberius* did at first personate) if they be perfectly dissembled may more easily invade the Subjects liberty then the furious proceedings of such as *Caligula* was. But wee must not be presidented in apparent violations of Law by *Queen Elizabeth*; for as generall reverence gave her power to do more then ordinary, so her perfect undissembled goodnesse, upon which her reverence was firmly planted, made the same more then ordinary fact in her, lesse dangerous then it would have beene in another Prince. In this point then leaving the meere fact of *Queen Elizabeth*; we will retire back to the ancient Law, and reason of *Edward* the first, and wee thereby shall mayntain that in all cases, wheresoever the generality is touched, the generality must be consulted.

Thirdly, if the Lords and Commons be admitted to some Cognizance of all things wherein they are concerned, yet they must meerly Counsell, they must not command, and the King Reasons thus, that it is impossible the same trust should be irrevocably committed to Us, and our Heires for ever, and yet a power above that trust (for so the Parliament pretends) be committed to others, and the Parliament being a body and dissolvable at pleasure, it is strange if they should be Guardians and Controllers in the manage of that trust which is granted to the King for ever. It is true, two supreams cannot be in the same sence and respect, but nothing is more knowne or assented to then this, that the King is *singulis major*, and yet *universis minor*, this we see in all conditionall Princes, such as the Prince of *Orange*, &c.

And though all Monarchies are not subject to the same condition, yet there scarce is any Monarchie but is subject to some conditions, and I thinke to the most absolute Empire in the World, this condition is most naturall and necessary, That the safety of the people is to be valued above any right of his as much as the end is to be preferred before the means; it is not just nor possible for any Nation so to enslave

it self; and to resigne its own interest to the will of one Lord, as that that Lord may destroy it without injury, and yet to have no right to preserve it selfe: For since all naturall power is in those which obey, they which contract to obey to their owne ruine, or having so contracted, they which esteeme such a contract before their own preservation, are felonious to themselves, and rebellious to nature.

The people then having intrusted their protection into the Kings hands irrevocably yet have not left that trust without all manner of limits, some things they have reserved to themselves out of Parliament, and this reservation is not all inconsistent with the Princes trust, though he desire to violate the same; but on the contrary, it is very ayding and strengthening to that trust, so far as the Prince seeks to performe it, for the peoples good; but it is objected, that a temporary power ought not to be greater then that which is lasting and unalterable. If this were so, the *Romans* had done unpolitickly, in creating Dictators, when any great extremity assailed them, and yet wee know it was very prosperous to them, sometimes to change the forme of Government; neither alwayes living under circumscribed Consuls, nor yet under circumscribed Dictators: but it is further objected, that if wee allow the Lords and Commons to be more than Councillors, wee make them Commanders and Controllers, and this is not sutable to Royalty. We say here, that to consent is more than to counsell, and yet not always so much as to command and controll; for in inferiour Courts, the Judges are so Counsellours for the King, as that the King may not countermand their judgments, and yet it were an harsh thing to say that they are therefore Guardians and Controllers of the King: & in Parliament, where the Lords and Commons represent the whole Kingdome (to whom so great a Majesty is due) and sit in a far higher capacity than inferiour Judges doe, being vested with a right both to counsell and consent, the case is far stronger; and as we ought not to conceive, that they will either counsell or consent to any thing, but what is publicly advantagious; so by such Councell and consent, we cannot imagine the King limited or lessened: for if it was by so known a Law, and so wisely established in *Edward* the first's days, the right of the people, to be summoned at *tractandum, ordinandum, faciendum, approbandum*, in all things appertaining to the people, and this as then was not prejudiciall to the King, why should the Kings Writ now abbreviate or annull the same? if the King him selfe be disable for many high matters, till consent in Parliament adde vigour to him, it cannot be supposed that he comes thither meerly to heare Councell, or that when hee is more than counsell'd that it is any derogation but rather a supply of vertue to him. A 4th. thing alleaged to the derogation of Parliaments is *That whatsoever the right of Parliaments is to assemble or treat in all cases of a publick nature, yet without the Kings concurrence and consent, they are livelesse conventions without all vertue and power, the very name of Parliament is not due to them.* This allegation at one blow confounds all Parliaments, and subjects us to as unbounded a regiment of the Kings meere will, as any Nation under Heaven ever suffered under. For by the same reason, that Parliaments are thus vertuesse and void Courts upon the Kings desertion of them, other Courts must needs be the like, and then what remainys, but that all our Laws, Rights, and Liberties, be either no where at all determinable, or else onely in the Kings breast? We contend not meerly about the name *Parliament*, for the same

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thing was before that name, and therefore the intent is, that the great Assembly of the Lords and Commons doe not represent and appeare in the right of the whole Kingdom, or else that there is no honour, nor power, nor judicature, residing in that great and Majesticall Body, then which, scarce any thing can be more unnaturall. But these Divisions between the King and Parliament, and betwixt the Parliament and Kingdome, seeming more uncouth, 'tis attempted to divide further between part and part in Parliament, so making the major part not fully concluding, and in the major part, between a faction misleading, and a party mislead. Such excellent Masters of Division has *Machiavils Rule* (*divide & impera*) made since the third of November 1640. 'Tis a wonderfull thing, that the Kings Papers being frayed scarce with any thing else but such doctrines of Division, tending all to the subversion of our ancient fundamentall Constitutions which support all our ancient Liberties, and to the erection of Arbitrary rule, should finde such applause in the World: but wee say further, that there is manifest difference between deserting & being deserted: if the Wife leave her Husbands bed, and become an adulteresse, 'tis good reason that she lose her dowry, and the reputation of a wife, but if the Husband will causlessly reject her, 'tis great injustice that she should suffer any detriment thereby, or be dismissed of any priviledge whatsoever. So if the King have parted from His Parliament, meerly because they sought His oppression, and he had no other means to withstand their tyranny, let this proclaime them a void Assembly: but if ill Counsaile have withdrawn him, for this wicked end meerly, that they might defeat this Parliament, and derogate from the fundamentall rights of all Parliaments (as His Papers seem to expresse) under colour of charging some few factious persons in this Parliament, (God forbid) that this should disable them from saving themselves and the whole State, or from seeking justice against their enemies. So much of the Subjects right in Parliament.

Now of that right which the Parliament may doe the King by Councill, if the King could be more wisely or faithfully advised by any other Court, or if His single judgment were to be preferred before all advice whatsoever, 'twere not onely vain, but extreemly inconvenient, that the whole Kingdome should be troubled to make Elections, and that the parties elected should attend the publick businesse; but little need to be said, I think every mans heart tells him, that in publick Consultations, the many eyes of so many choice Gentlemen out of all parts, see more then fewer, and the great interest the Parliament has in common justice and tranquility, and the few private ends they can have to deprave them, must needs render their Counsell more faithfull, impartiall, and religious then any other. That dislike which the Court has ever conceived against Parliaments, without al dispute is a most pregnant prooffe of the integrity, and salubrity of that publick advice, and is no disparagement thereof; for we have ever found enmity and antipathy betwixt the Court and the Countrey, but never any till now betwixt the Representatives, and the Body of the Kingdome represented. And were we not now, those dregs of humane race upon whom the unhappy ends of the World are falne, Calumny and Envy herself would never have attempted to obtrude upon us such impossible charges of Treason and Rebellion against our most sacred Councill, from the mouthes of Popish, Prelaticall, and Military Courtiers.

The King sayes, *Tis improbable and impossible that His Cabinet Counsellors, or his Bishops, or souldiers, who must have so great a share in the misery, should take such paines in the procuring thereof, and spend so much time, and run so many hazards to make themselves slaves, and to ruine the freedome of this Nation:* How strange is this? we have had almost forty yeares experience, that the Court way of preferment has been by doing publike ill Offices, and we can nominate what Dukes, what Earles, what Lords, what Knights, have been made great and rich by base disservices to the State: and except Master *Hollis* his rich Widow, I never heard that promotion came to any man by serving in Parliament: but I have heard of trouble and imprisonment, but now see the traverse of fortune; the Court is now turned honest, my Lord of *Straffords* death has wrought a sudden conversion amongst them, and there is no other feare now, but that a few Hypocrites in Parliament will beguile the major part there, and so usurpe over King, Kingdome, and Parliament for ever, sure this is next to a prodigy, if it be not one: but let us consider the Lords and Commons as mere Counsellors without any power or right of counselling or consenting, yet we shall see if they be not lesse knowing and faithfull than other men, they ought not to be deserted, unlesse we will allow that the King may chuse whither he will admit of any counsell at all or no, in the disposing of our lives, lands, and liberties. But the King sayes, *that he is not bound to renounce his owne understanding, or to contradict his owne conscience for any Counsellors sake whatsoever.* 'Tis granted in things visible and certaine, that judge which is a sole judge and has competent power to see his own judgement executed, ought not to determine against the light of nature, or evidence of fact.

The sin of *Pilate* was, that when he might have saved our Saviour from an unjust death, yet upon accusations contradictory in themselves, contrary to strange Revelations from Heaven, he would suffer Innocence to fall, and passe sentence of death, meerly to satisfy a blood-thirsty multitude. But otherwise it was in my Lord of *Straffords* case, for the King was not sole Judge, nay, he was incapable of sitting as Judge at all, and the delinquent was legally condemned, and such heynous matters had been proved against him, that his greatest friends were ashamed to justify them, and all impartiall men of three whole Kingdomes conceived them mortall; and therefore the King might therein, with a cleare conscience have signed a warrant for his death, though he had dissented from the judgement. So if one judge on the same Bench, dissent from three, or one juror at the barre from a eleven, they may submit to the major number, though perhaps lesse skillfull than themselves without imputation of guilt: and if it be thus in matters of Law, *a fortiori*, 'tis so in matters of State, where the very satisfying

fying of a multitude sometimes in things not otherwise expedient, may prove not onely expedient, but necessary for the settling of peace, and ceasing of strife. For example: It was the request of the whole Kingdome in the Parliament to the King, to intrust the *Militia*, and the Magazine of *Hull, &c.* into such hands as were in the peoples good esteeme. Conscience and understanding could plead nothing against this, and if it could have beene averred (as it could not, for the contrary was true) that this would have bred disturbance, and have been the occasion of greater danger, yet where the people by publike authority will seeke any inconvenience to themselves, and the King is not so much interested in it as themselves, 'tis more inconvenience and injustice to deny then grant it: what blame is it then in Princes when they will pretend reluctance of conscience & reason in things behovefull for the people? and will use their fiduciary power in denying just things, as if they might lawfully doe whatsoever they have power to doe; when the contrary is the truth, and they have no power to do but what is lawfull and fit to be done. So much for the ends of Parliamentary power. I come now to the true nature of it, publike consent: we see consent as well as counsell is requisite and due in Parliament, and that being the proper foundation of all power (for *omnis potestas fundata est voluntate*) we cannot imagine that publike consent should be any where more vigorous or more orderly then it is in Parliament. Man being depraved by the fall of *Adam*, grew so untame and uncivill a creature, that the Law of God written in his brest was not sufficient to restraine him from mischief, or to make him sociable, and therefore without some magistracy to provide new orders, and to judge of old, and to execute according to justice, no society could be upheld, without society men could not live, and without lawes men could not be sociable, and without authority somewhere invested, to judge according to Law, and execute according to judgement, Law was a vaine and void thing, it was soone therefore provided that lawes agreeable to the dictates of reason should be ratified by common consent; and that the execution and interpretation of those Lawes should be entrusted to some Magistrate, for the preventing of common injuries betwixt Subject and Subject, but when it after appeared that man was yet subject to unnaturall destruction, by the Tyranny of intrusted Magistrates, a mischief almost as fatall as to be without all Magistracy, how to provide a wholesome remedy therefore, was not so easie to bee prevented. 'Twas not difficult to invent Lawes, for the limiting of supreme Governours, but to invent how those Lawes should be executed, or by whom interpreted, was almost impossible, *nam quis custodiat ipsos custodes*: To place a Superiour above a Supreme, was held unnaturall, yet what a live-

Uselesse fond thing would Law be, without any Judge to determine it, or power to enforce it; and how could humane consociation be preserved without some such Law? Besides, if it be agreed upon that limits should be prefixed to Princes, and Judges appointed to decree according to those limits, yet another great inconvenience will presently affront us; for we cannot restraine Princes too farre, but we shall disable them from some good, as well as inhibit them from some evill, and to be disabled from doing good in some things, may be as mischievous, as to be inabled for all evils at meere discretion. Long it was ere the world could extricate it self out of all these extremities, or finde out an orderly meanes whereby to avoid the danger of unbounded prerogative on this hand, and to excessive liberty on the other: and scarce has long experience yet fully satisfied the mindes of all men in it. In the infancy of the world, when man was not so artificiall and obdurate in cruelty and oppression as now, and when policy was more rude, most Nations did chuse rather to submit themselves to the meere discretion of their Lords, then to rely upon any limits, and to be ruled by Arbitrary edicts, then written Statutes. But since, Tyrannie being growne more exquisite, and policy more perfect, (especially in Countreys where Learning and Religion flourish) few Nations will indure that thraldome which uses to accompany unbounded and unconditionate royalty, yet long it was ere the bounds and conditions of supreme Lords were so wisely determined or quietly conserved as now they are, for at first when *Ephori*, *Tribuni*, *Curatores*, &c. were erected to poyze against the scale of Sovereignty, much blood was shed about them, and States were put into new broyles by them, and in some places the remedy proved worse then the disease. In all great distresses the body of the people was ever constrained to rise, and by the force of a Major party to put an end to all intestine strifes, and make a redresse of all publique grievances, but many times calamities grew to a strange height, before so cumbersome a body could be raised; and when it was raised, the motions of it were so distracted and irregular, that after much spoile and effusion of blood, sometimes onely one Tyranny was exchanged for another, till some way was invented to regulate the motions of the peoples moliminous body, I think arbitrary rule was most safe for the world, but now since most Countries have found out an Art and peaceable Order for publique Assemblies, whereby the people may assume its owne power to doe it selfe right without disturbance to it selfe, or injury to Princes, he is very unjust that will oppose this Art and order. That Princes may not be now beyond all limits and Lawes, nor yet left to be tryed upon those limits and Lawes, by any private parties, the whole community in its underived Majesty shall convene to

doe Justice, and that this convention may not be without intelligence, certaine times and places and formes shall be appointed for its regliment, and that the vastnesse of its owne bulke may not breed confusion, by vertue of election and representation: a few shall act for many, the wise shall consent for the simple, the vertue of all shall redound to some, and the prudence of some shall redound to all. And sure, as this admirably composed Court which is now called a Parliament, is more regularly and orderly formed, then when it was called the mickle Synod, or Witenagenot, or when this reall body of the people did throng together at it, so it is not yet perhaps without some defects, which by art and policy might receive further amendment, some divisions have been sprung of late betweene both Houses, and some between the King and both Houses, by reason of the uncertainty of jurisdiction, and some Lawyers doubt how far the Parliament is able to create new formes and presidents; and has a jurisdiction over it selfe. All these doubts would be solemnly solved. But in the first place, the true Priviledges of Parliaments, not onely belonging to the being and efficacy of it, but to the honour also and complement of it, would be clearly declared: for the very naming of Priviledges of Parliament, as if they were Chimera's to the ignoranter sort, and utterly unknowne to the learned, hath been entertained with scorne since the beginning of this Parliament. The vertue of representation hath beene denied to the Commons, and a severance hath beene made betwixt the parties chosen and the parties choosing, and so that great Priviledges of all Priviledges, that unmoveable Basis of all honour and power, whereby the House of Commons claimes the entire rite of all the Gentry and Commonalty of England, has been attempted to be shaken & disturbed, most of our late distempers and obstructions in Parliament have proceeded from this, that the people upon causelesse defamation and unproved accusations have been so prone to withdraw themselves from their representations, and yet there can be nothing under heaven, next to renouncing God, which can be more perfidious, and more pernicious in the people then this.

Having now premised these things, I come to the maine difficulties lying at this time in dispute before us, it is left unquestioned that the legislative power of this Kingdome is partly in the King, and partly in the Kingdome, and that in ordinary cases, when it concernes not the saving of the people from some great danger or inconvenience, neither the King can make a generall binding Law or Ordinance without the Parliament, or the Parliament without the King, and this is by a knowne Maxime, *Non recurrendum est ad extraordinaria, &c.*

It ought to be also as unquestioned, that where this ordinary course cannot

not be taken from the preventing of publicke mischiefs, any extraordinary course that is for that purpose the most effectually, may justly be taken and executed by the most transcendent over-ruling *Primum Mobile* of all humane Lawes, if the King will not joyne with the people, the people may without disloyalty save themselves, and if the people should be so unnatural as to oppose their owne preservation, the King might use all possible meanes for their safety, yet this seems to be denied by the King, for he sets forth Proclamations and cites Statutes in them to prove, that the power of levying armes and forces is solely in him, and he presses them indefinitely, not leaving to the Subject any right at all of rising in armes, though for their owne necessary defence, except he joyne consent and Authority: In the same manner also, he so assumes himselfe a share in the legislative power, as without his concurrence the Lords and Commons have no right at all to make any temporary orders for putting the Kingdome into posture of defence, in what publicke distresse whatsoever: And therefore in Sir John Hothams case, he doth not ouely charge him with Treason, for observing the Parliament instructions and Commissions in a pretended danger, but he pronounceth the meere act Treason, let the circumstances be what they will. Let the world judge whether this be not contrary to the clearest beames of humane reason, and the strongest inclinations of nature, for every private man may defend himselfe by force, if assaulted, though by the force of a Magistrate or his owne father, and though he be not without all confidence by flight &c. yet here whole nations being exposed to enmity and hazard, being utterly incapable of flight, must yeeld their throat and submit to Assassins, if their King will not allow them defence.

See if this be not contrary to the originall, end, and trust of power, Law, and whether it doe not open a gap to as vast and arbitrary a prerogative as the Grand Seignior has, and whether this bee not the maine ground of all those bitter invectives almost which are iterated and enforced with so much eloquence in all the Kings late papers: See if we are not left as a prey to the same bloody hands as have done such diabolicall exploits in Ireland, or to any others which can perswade the King that the Parliament is not well affected to him, if we may not take up armes for our owne safety, or if it be possible for us to take up armes without some Votes or Ordinances to regulate the Militia, or to make our defence manly, and not beastiall and void of all counsell; the name of a King is great I confesse, and worthy of great honour, but is not the name of people greater? Let not meere tearmes deceive us, let us weigh names and things together, admit that God sheds here some rayes of Majesty upon his Vicegerents on earth, yet except we thinke he doth this out of particular love to Princes themselves, and not to communities of men, we must not hence in-

vert the course of nature, and make nations subordinate in end to Princes. My Lord of Strafford sayes that the Law of Prerogative is like that of the first table, but the Law of common safety and utility like that of the second, and hence concludes, that precedence is to be given to that which is more sacred, (that is) Regall Prerogative. Upon this ground all Parasites build when they seek to hood-wink Princes for their own advantages, and when they assay to draw that esteem to themselves, which they withdraw from the people: and this doctrin is common, because 'tis so acceptable; for as nothing is more pleasant to Princes then to be so deified, so nothing is more gainfull to Courtiers then so to please. But to looke into tearmes a little more narrower, and dispell umbrages: *Princes are called God, Fathers, Husbands, Lords, Heads, &c.* and this implies them to be of more worth, and more unsubordinate in end, then their *Subjolls* are, who by the same relation must stand as *Creatures, Children, Wives, Servants, Members, &c.* I answer, these tearmes doe illustrate some excellency in Princes by way of similitude, but must not in all things be applyed, and they are most truly applyed to subjects, taken *divisim*, but not *conjunctim*: Kings are Gods to particular men, *secundum quid*, and are sanctified with some of Gods royalty; but it is not for themselves, it is for an extrinsecall end, and that is the prosperity of Gods people, and that end is more sacred than the meanes, as to themselves they are most unlike God; for God cannot be obliged by any thing extrinsecall, no created thing can be of sufficient value or excellency to impose any duty or tye upon God, as Subjects upon Princes; therefore granting Prerogative to be but mediate, and the Weale publike to be finall, we must ranke the Lawes of liberty in the first Table, and Prerogative in the second, as nature doth require; and not after a kinde of blasphemy ascribe that unsubordination to Princes, which is onely due to God; so the King is a Father to his people, taken singly, but not universally; for the father is more worthy then the sonne in nature, and the sonne is wholly a debtor to the father, and can by no merit transcend his duty, nor challenge any thing as due from his father, for the father doth all his offices meritoriously, freely, and unexactedly. Yet this holds not in the relation betwixt King and Subject, for its more due in policy, and more strictly to be challenged, that the King should make happy the people, than the people make glorious the King. The same reason is also in relation of Husband, Lord, &c. for the wife is inferiour in nature, and was created for the assistance of man, and servants are hired for their Lords meere attendance; but it is otherwise in the state between man and man, for that civill difference which is for civill ends, and those ends are, that wrong and violence may be repressed by one, for the good of all, not that servility and drudgery may be imposed upon all for the pompe of one. So the
head

Head naturally doth not more depend upon the body, than that does upon the head, both head and members must live and die together; but it is otherwise with the head Politicall, for that receives more subsistence from the body than it gives, and being subservient to that, it has no being when that is dissolved, and that may be preserved at its dissolution.

And hence it appeares, that the very order of Princes binds them not to be insolent, but lowly; and not to aime at their owne good but secondarily, contrary to the Florentines wretched Politiques. And it followes, that such Princes, as contrary to the end of government, effect evill instead of good, insulting in common servilitie, rather then promoting common securitie, and placing their chiefest pomp in the sufferance of their Subjects, commit such sinnes as God will never countenance; nay, such as the unnaturall father, the tyrannous husband, the merciless master, is not capable of committing; nay, wee must conceive that Treason in Subjects against their Prince, so farre onely as it concernes the Prince, is not so horrid in nature, as oppression in the Prince exercised violently upon Subjects. God commands Princes to study his Law day and night, and not to amasse great treasures, or to encrease their Caveliers, or to lift up their hearts above their brethren, nor to wast their owne demeanes, lest necessity should tempt them to rapine. But on the contrarie, *Machiavels* Instructions puffe up Princes, *That they may treat Subjects not as brethren, but as beasts, as the basest beasts of drudgery, teaching them by subtiltie, and by the strength of their Militia, to uphold their owne will, and to make meere sponges of the publike coffers*: And sure if that cursed Heretike in policie could have invented any thing more repugnant to Gods commands, and natures intention, he had beene held a deeper Statesman than he is; but I conceive it is now sufficiently cleared, that all rule is but fiduciary, and that this and that Prince is more or lesse absolute, as he is more or lesse trusted, and that all trusts differ not in nature or intent, but in degree onely and extent; and therefore since it is unnaturall for any Nation to give away its own propriety in it selfe absolutely, and to subject it selfe to a condition of servility below men, because this is contrary to the supream of all Lawes, we must not thinke it can stand with the intent of any trust, that necessary defence should be barred, and naturall preservation denyed to any people; no man will deny, but that the people may use meanes of defence, where Princes are more conditionate, and have a soveraignty more limited, and yet thete being onely lesse trusted then absolute Monarchs, and no trust being without an intent of preservation, it is no more intended that the people shall be remedilessly oppressed in a Monarchy, than in Republicke. But tracing this no further, I will now rest upon this, that whatsoever the King has alledged against raising of Armes, and publishing of
Orders

Orders indefinitely, is of no force to make Sir John Horham, or those by whose authority he acted, Traitors, unlesse it fall out that there was no ground nor necessity of such defence. So much of danger certaine.

I will now suppose the danger of the Commonwealth uncertaine, the King saies; the Parliament denies; the King commands, the Parliament forbids: The King sayes the Parliament is seduced by a traiterous faction; the Parliament saies the King is seduced by a Malignant Party: the King sayes the Parliament tramples upon his Crowne; the Parliament sayes the King intends Warre upon them: to whether now is the Subject bound to adhere? I will not insist much upon generall presumptions, though they are of moment in this case, for without all question tis more likely, that Princes may erre and have sinister ends, then such generall conventions of the Nobility, Gentry, and Commonalty so instituted, and regulated as ours are in England. The King does highly admire *the ancient, equall, happy, well poyzed and never enough commended constitution of this Government, which hath made this Kingdome, so many yeares both famous and happy, to a great degree of envie, & amongst the rest, our Courts of Parliament: and therein more especially, that power which is legally placed in both Houses, more then sufficient (as he sayes) to prevent and restrain the power of Tyranny;* But how can this be? if the King may at his pleasure take away the being of Parliament meerly by dissent, if they can do nothing but what pleases him or some Clandestine Councellors, & if upon any attempt to do any thing else, they should be called Traytors, & without further arraignment, or legall proceeding, be deserted by the Kingdom whose representations they are, what is there remaining to Parliaments? are they not more servile then other inferiour Courts; nay, are they not in a worse condition then the meanest Subject out of Parliament? and how shall they restrain tyranny, when they have no substance at all themselves; nay nor no benefit of Justice, but arbitrary. Surely if these principles hold, they will be made the very Engines and Scaffolds whereby to erect a government more tyrannicall then ever was knowne in any other Kingdome, wee have long groaned for them, but we are likely now to groane under them: but you will say, the King *hath a power of dissent, he may use it at his pleasure, if he have none, then he is a meere Cypher, and the Parliament may tyrannize at pleasure: either the one or the other must be predominant, or else by a mutuall opposition all must perish; and why not the King predominant rather then the Parliament?* We had a maxime, and it was grounded upon Nature, and never till this Parliament withstood, that a community can have no private ends to mislead it, and make it injurious to it selfe, and no age will furnish us with one story of any Parliament freely elected, and held that ever did injure a whole Kingdome, or exercise any tyranny, nor is there any possibility how it should.

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The King may safely leave his highest rights to Parliaments, for none knows better, or affects more the sweetnesse of this so well-balanced a Monarchy then they doe, and it hath been often in their power under great provocations to load their rule with greater fetters and clogs, but they would not. Let us marke but the nature, the right, the power, the wisdom, the justice of Parliaments, and we shall find no cause to suspect them, of such unmatchable treasons and conspiracies as are this day, and never was before charged upon them; for our Chronicles make it apparent, that there is scarce any other Nation, wherein Monarchy hath been more abused by rash inconsiderate Princes, then in this, nor none at all wherein it hath been more inviolably adored, and loyally preserved from all diminution, I wish it were not some incircumment to those execrable Instruments, which steale the Kings heart from us, that they thinke the Religion of Protestants too tame, and the Nation of the English too insensible of injuries; but I hope God will the more tenderly resent these things. The composition of Parliaments, I say, takes away all jealousies, for it is so equally, and geometrically proportionable, and all the States do so orderly contribute their due parts therein, that no one can be of any extreme predominance, the multitude loves Monarchy better then Aristocracy, and the Nobility and Gentry, preferre it as much beyond Democracy, and we see the multitude hath onely a representative influence, so that they are not likely to sway, and yet some influence they have, and that enough to preserve themselves from being overruled. We also in England have not a Nobility and Gentry so independent and potent as in France, Germany, Denmark, &c. Nor as they were here immediately after the Conquest, by reason of their great Feoffees, whereby to give Lawes either to the Crowne, or the people; but they stand at such faire and comely distances betweene the King and people, and also between themselves, *that they serve for an excellent screen and banke* (as the Kings words are) *to assist both King and people against the encroachment of each other.* And as the middle Region of the aire treats loving offices betwixt heaven and earth, restraining the fumes and exhalations of Sea and Land, that they ascend not too high and at the same instant allaying that restless Planets scorching flames, which else might prove insufferable to the lower Elements: So doth both Houses of Parliament, as pleasantly and sweetly arbitrate betwixt the Prince and his poorest Vassals, and declining Tyranny on the one side, and Ochlocracy on the other, preserving entire to the King the honour of his Scepter, and to the people the patrimony of freedome. Let us not seek then to corrupt this purity of composition, or conceive that both Gentry, and Nobility can combine against the King, when they have no power but derivative, the one more depending upon the King, and the other upon the people, but both most excellently to affect the good of the whole, and to prevent the exorbitance of any one part. Next, the right of all the Lords and Commons in this State is so great, that no change of government can be advantage to them in that temporary capacity, except they could each one obtaine an hereditary Crowne, which is a thing utterly impossible. Next, their power is merely derivative, so that except we will conceive that both King and people will be consenting to the usurpation, nothing can be done; and if we conceive that they may by fraud gain their consent, nothing can

can withstand them. Lastly, their wisdom hath bene ever held unquestionable, and their justice inviolable, no Prince that ever cast himselfe thereupon was defrauded, no Prince that ever declined the same, proved prosperous. In summe, Parliamentary government being used as Physick, nor diet by the intermission of due spaces of time, has in it all that is excellent in all forms of Government whatsoever. If the King be an affector of true liberty, he has in Parliament a power as extensive as ever the Roman Dictators was, for the preventing of all publike distresses. If the King be apt to intrude upon the common liberties, the people have hereby many Democratically advantages to preserve themselves. If Warre be, here is the Ulaive vertue of Monarchy to encounter it, here is the admirable Counsell of Aristocracy to manage it. If Peace be, here is the industry and courage of Democracy to improve it. Let us now see how Kings usually governe without Parliaments, especially such as are ruled by Counsell averse from Parliaments. I need not speak of France, and other Countries, where together with these generall Assemblies, all liberty is false to the ground: I need not travel further then our shires, nay, I need not passe beyond our own Times my discourse will be endless if I doe.

The wisest of our Kings following their owne private advise, or being conducted by their owne wills, have mistaken their best Subjects for their greatest enemies, and their greatest enemies for their best Subjects, and upon such mistakes our justest Kings have often done things very dangerous. And without upbraiding I may say, that this King by the fraud of such as have incensed him against Parliaments, and his most loyal people, hath so farre been possesst with a confidence in the zeale of Traytors, that he hath scarce ever yet enjoyed that grandour and splendor which his Ancestors did enjoy. He hath met in the field with two contrary Armies of his owne Subjects, and yet that Army which he went to destroy, and advanced their colours against him, was more loyal then that which himselfe commanded, and yet both were more loyal than those fatall whisperers which engaged them to one against the other, if the whole Kingdom of *Scotland* had been more hearkned to, rather then some few malignants of the Popish, and Prelaticall faction, the King had sooner found out the fidelity of that whole Kingdome, and the infidelity of that wicked faction. But as things then stood, the King was as much incensed against them, as he is against us now, and he that did then perswade him that the Scots were no Rebels, seemed as great an enemy as he doth now that shall defend the innocency of Sir *Iohn Herburn*; there was no difference at all betwixt that case of the Scots, and this of ours, the King attributed then as much to his owne conscience and understanding, as he doth now, and he attributed then as little to the publike Votes of that Kingdome, as he doth now to this, only in this, our condition is the more unhappy, because that so fresh and memorable experiment doth not at all profit us, but still by a strange kind of relapse, the King seems now the more firmly to rely upon his owne private reason, and counsell, the more cause he hath to confide in publike advertisements, and the more he professes to doe contrary: the main question now is, whether the Court, or the Parliament gives the King the better Counsell; the King says, he cannot without renouncing his owne conscience and reason, preferre the Parliaments Counsell before the Courts, and that which the King here

here this Conscience and reason, can be nothing else but meer private opinion; for if the Counsell of the Parliament were directly opposite to common understanding and good Conscience, and the Counsell of the Court were evidently consonant thereto, there needed no such contestation: For example, the Parliament conceives that such and such ill offices have been done to frame parties, and unite forces against the Parliament and the State, and therefore they desire that such Towns, and Ports, and the public *Militia* may be intrusted to the custody and command of such Noblemen and Gentlemen as they confide in; the Kings secret Court-Counsell suggests against this, that this request includeth a treasonable intention in it, and that the aime is to wrest all power out of the Kings hand, that he may be forced to depose himselfe; the effect of this is no more but to let the King know, that they are more wise and faithfull than the Parliament, and that he may doe royally to hearken to them in condemning the Lords and Commons of most inexpressible, unnaturall, impossible Treason, for they must needs love him better then the Parliament, but he cannot hearken to the Lords and Commons without offering violence to his own reason and conscience; here we see the misery of all, if Princes may not be led by their own opinions, though infused by obscure whisperers, when they scandal the loyalty of whole Kingdomes without cause, rather then by the sacred and awfull counsels of whole Nations, they are denyed liberty of conscience, and ravisht out of their own understandings. And yet if Princes may be admitted to prefer such weak opinions before Parliamentary motives and petitions, in those things which concerne the Lives, Estates, and Liberties of thousands, what vain things are Parliaments, what unlimited thing are Princes, what miserable things are Subjects? I will enlarge my selfe no longer upon this endlesse Theame: Let us look upon the Venetians, and such other free Nations, why are they so extremely jealous over their Princes, is it for fear least they should attaine to an absolute power? It is meerly for fear of this bondage, that their Princes will dote upon their own wills, and despise publike Counsels and Lawes, in respect of their owne private opinions; were not this the sting of Monarchy, of all forms it were the most exquisite, and to all Nations it would be the most desireable: Happy are those Monarchs which qualifie this sting, and happy are those people which are governed by such Monarchs.

I come now to the particularities of our own present case, for it may be said, that though publike advise be commonly better then private, yet in this case it may be otherwise; some men have advised the King, that the Parliament hath traitterous designs both against his Person and his Crown, and not to be prevented but by absenting himself, denying his influence and concurrence, frustrating and protesting against their proceedings as invalid and seditious, and laying heavy charge of Rebellion upon them, to this advice the King hearkens, so the Parliament requels, and advises the contrary, and now in the midst of all our calamities, of gasping *Ireland*, and bleeding *England*, the Parliament seeing that either they must make use of their legislative power, and make ordinance to secure some Forts and settle the *Militia* of the Kingdom in sure hands, and to prevent the seducers of the King, or else two Kingdomes should probably be lost, they doe accordingly. The King proclaims to the contrary notwithstanding. The question then as I conceive is this only, whether or no the King hath any just cause to suspect the Parliament of Treason (and can make appeare

to the world as some of his Papers mention) wherein they have attempted or plotted any thing against his person and Crowne, which was the only motive why he sought to absent himselfe from London, and to possesse himselfe of *Hull*, and to frame such an impeachment against some of both Houses if this can be affirmed and proved, the Parliament shall be held guilty in all their Votes Ordinances and Commissions concerning Sir *John Hotham* and the *Militia*, &c. Although it be the first time that any free Parliament was ever so criminous, but if this cannot be proved, it must be granted that according to the Votes of Parliaments, the Kings departure did by frustrating Parliamentary proceedings in a time of such calamitie and distresse greatly indanger two Kingdomes, and whosoever advised the King to that departure, and to the charging of Treason since laid upon the Parliament (and all such as have obeyed them, in seeking to prevent publike mischiefs) are as pernicious enemies to this State, as ever received their being from it. The businesse of *Hull* is most instanced in, let that be first surveyed.

Sir *John Hotham* is to be lookt upon but as the Actor, the Parliament as the Author in holding *Hull*, and therefore it is much wondered at, that the King frames more violent against the Actor then the Authour, but since through the Actor the Author must needs be peared, if the Act be found Treason, let us consider of circumstances, the same act may be treasonable or not, if such and such circumstances vary, for example, to possesse a Town and shut the gates against a King is Treason, if there be not something in the act or in the intention or in the Authoritie of him that shuts the gates to qualifie and correct the nature of Treason in that act.

The first thing then to be lookt on is, that the King was meerly denied entrance for that time, his generall right was not denied, and no defying language was given, no act of violence was used, though the King for divers houres together did stand within Musket shot, and did use termes of defiance, and this makes the act meerly defensive, or rather passive. And therefore how this should administer to the King any ground to leavy guards at *Yorke*, many men wonder, or that it should seeme the same thing to the King, as if he had been pursued to the gates of *Yorke*. Did the King without any feare treat Sir *John Hotham* as a Traytor in the face of his Artillery, and after to enter *Hull* with twentie Horse only unarmed, and continue such a harsh Parley, so many houres, and yet when he was in *Yorke*, in a County of so great assurance, could nothing but so many bands of Horse and Foot secure him from the same Sir *John Hotham*? The next thing considerable is the Parliaments intention: if the Parliament have hereupon turned any of the Townesmen out of their estates, or claymed any interest in it to themselves, or have disseized the King, utterly denying his right for the future, or have made any other use of their possession, but meerly to prevent civill warre, and to disfurnish the Kings seducers of Armes and Ammunition: let the State be branded with Treason, but if none of these things be by any credit, though their enemies should be judges, the most essentiall propertie of Treason must needs here be absent in this act.

The next thing considerable is the Parliaments Authoritie, if the Parliament be not virtually the whole kingdome it selfe, if it be not the supreme judicature, as well in matters of State as matters of Law, if it be not the great Councell of the Kingdome, as well as of the King, to whom it belongeth by the consent of all nations to provide in all extraordinary cases, *No quid detrimenti capiat Respub.* let the brand of

Treason

Treason sticke upon it, may if the Parliament would have used this forcible meanes unlesse petitioning would not have prevailed, or if their grounds of jealousie were merely vaine, or if the jealousie of a whole Kingdome can be counted vaine, or if they claime any such right of judging of danger, and preventing them without the Kings consent as ordinary and perpetuall, and without any relation to publike danger, let the reward of Treason be their guerdon.

But if their authoritie be so sacred, their intention so loyall, their act free from offensive violence, and if the King might have prevented the same repulse by sending a Messenger before hand, or by coming without such considerable Forces in so unexpected a manner, let not treason be here misplaced. Had *Faux* false by a private mans Sword in the very instant, when he would have given fire to his traine, that act had not been punishable; and the Scots in England tooke *Newcastle* but by private authoritie, yet there were other qualifications in that act sufficient to purge it of Treason, and he is not comprehensive of the value of a whole State, nor of the vigour of our nationall union which does not so interpret it; how much more unjust then is it that the whole State of England shall be condemned of Treason for doing such an act as this, when its owne safetie, wherein none can have so much interest as it selfe, was so highly touched? Let not all resistance to Princes be under one notion confounded, let the principles and ingredients of it be justly examined, and sometimes it will be held as pious and loyall to Princes themselves, as at other times it is destructive and impious. Let us by the same test try the actions, intentions, and authoritie of the Papists now in *Ireland*: and compare them with this businesse at *Hull*, and we shall see a diametricall contrarietie between them. Their actions are all blood, rapine, and torture, all ages, all sexes, all conditions of men have tasted of their infernall cruelty. Their intentions are to extirpate that Religion which hath indeavoured so long to bring them from Idolatry and Atheisme, and to massacre that nation which hath indeavoured so gently to reduce them from poverty and bestiall barbarisme. Their chiefe leaders in this horrid tragedy, are Jesuites and meer Banderroes, and the Authority of King, Parliament, and Magistracie is the principall thing which they strike at, and seek to overwhelme in this deplorable deluge of blood, such a direct contrarietie then being betwixt the true Rebels in *Ireland*, and the misnamed Rebels here in *England*, the same men which condemne the one, if they would be true to themselves, they ought to commend the other, for we have had experience often in *England*, and other nations have had the like, that Kings have marched forth amongst their enemies to encounter with their friends, so easily are they to be flattered into errour, and out of errour to seek the ruine of those which ayme at nothing but perdition. And yet questionable when *Richard* the second was invironed with the Forces of *Spencer*, and his confederates, vowing to sacrifice their blood in his quarrell, and in defiance of the adverse trayterous Peeres, he which would have told him, that those Swords drawne for him, were in truth drawne against him and his best friends, and those Swords on the other side drawne against him, or rather against his seducers, were indeed drawn for him, should have found but poore acceptance, for without doubt the King would have thought such a suggestion an abuse to his senses, to his reason, to his conscience, and an impudent imposture, worthy of nothing but scorne and indignation. And if it had been further pressed that the voyce and counsell of the Peeres was the voyce and

councell of the major and better part of the Kingdome, whereas *Spencers* party was but of inconsiderable fortanes, and his Councell was but private, and might tend to private ends, it is likely the King at the last resort, would have referred all to his owne will and discretion; but I have now done with the businesse of *Hall*, and therein I think with all objections against the Loyaltie of the Parliament, for the same reason will extend to all their Votes and actions concerning the *Militia*, &c. and in summe all ends in this; if Kings be so inclinable to follow private advise rather then publike, and to preferre that which closes with their naturall impotent ambition, before that which crosses the same, are without all limits, then they may destroy their best subjects at pleasure, and all Charters and Lawes of publike safetie and freedome are voyd, and God hath not left humane nature any meanes of sufficient preservation. But on the contrary, if there be any benefit in Lawes to limit Princes when they are seduced by Privadoes, and will not hearken to the Great Councell of the Land, doubtlesse there must be some Court to judge of that seducement, and some authoritie to inforce that judgement, and that Court and Authoritie must be the Parliament, or some higher Tribunal, there can be no more certaine Crisis of seducement, then of preferring private advise before publike. But the King declines this point, and saith, that he doth not undervalue the whole Parliament, or lay charge of Treason upon all, he doth confesse that divers have dissented, and divers been absent, &c. he deserts only, and accuses the faction and conspiracy of some few in Parliament. We are now at last fallen upon an Issue fit to put an end to all other invectives, let us sticke close to it. The King promises very shortly a full and satisfactory narration of those few persons in Parliament: whose designe is, and alwayes was to alter the whole frame of government both in Church and State, and to subject both King and people to their owne lawlesse Arbitrary power and government; a little of this Logicke is better then a great deale of Rhetoricke, as the case now stands. If the King will please now to publish the particular crimes of such, as he hath formerly impeached of Treason, and the particular names of such as now he sets forth in those Characters, and will therein referre himselfe to the strength of his proofes, and evidence of his matter, it is impossible that any jealousie can cloud his integritie, or checke his power any longer; Then it will appeare to all, that he hath not left us, out of any disaffection to Parliaments, or out of any good opinion of Papists, Delinquents, and other Incendiaries, but that he was necessitated to depart from us, that he might be the better able to preserve to us our Religion, Lawes and liberties, and that none of his solenne oathes of cordiall love to us hath wanted integritie and faith. This will satisfie all lovers of Justice, that he gives not light credit to weak whisperers or malicious informers (whose ayme may be to bring this Parliament to some ignoble tryall, or to confound it without any tryall at all by generall aspersions and mere calumnious furnishes) this will proclaim his candor & sinceritie, and set a brighter luster upon his Justice, then any oratory whatsoever. By the performance of this promise he shall not doe only right to himselfe, but also to the whole kingdome, for the distracted multitude, being at last by this meanes undeceived, shall not onely prosecute themselves, and all their power presently at his feet, but for ever after remain the more assured of his good, whether to publike liberties and Parliamentary Priviledges. Flowsoever nothing but the awfull promise of a King could make us thinke so dishonorably of Parliaments, or suspende our judgements so long of them; for an Aristocracie

in Parliament cannot be erected without meanes, and what this meanes shall be, is yet to us altogether inscrutable, for the power of Parliaments is but derivative and depending upon publike consent, and how publike consent should be gained for the erection of a new unlawful odious tyranny amongst us, is not discernable, the whole kingdom is not to be mastered against consent, by the Traine Band, nor the Traine Bands by the Lords or Deputie Lieutenantes, nor they by the major part in Parliament, nor the major part in Parliament by I know not what *septem-vir*, there is some mysterie in this which seemes yet above, if not contrary to nature, but since the King hath promised to open it, we will suspend our opinion and expect it as the finall issue of all our disputes.

The maine body of the difference being thus stated, I come now to the observations of some other severall objections against this Parliament, and exceptions against arbitrary power in all Parliaments, and I shall observe no order, but consider them as I finde them, either dispersed or recollected in the Kings late Expresses.

The Parliament being complained against for undutifull usage to the King above all former Parliaments, hath said, *that if they should make the highest presidents of other Parliaments their patterne, there would be no cause to complain of want of modestie and dutie.*

The King, because some Parliaments formerly have deposed Kings, applies these words to those presidents, but it may justly be denyed that free Parliaments did ever truly consent to the dethroning of any King of England, for that Act whereby *Richard the second* was deposed, was rather the Act of *Hen. the fourth* and his victorious Army, then of the whole Kingdom.

The Parliament is taxed of reproching this Kings government, to render him odious to his subjects, whereas indeed all the miscarriages and grievous oppressions of former times are solely imputed to the ill Ministers and Counsellors of the King, *And all the misfortunes of these times since Novemb. 1640. are imputed to the blame of the Parliament:* the Kings words to the Parliament are, *That the condition of his Subjects, when it was at worst under his government was by many degrees more pleasant and happy then this, to which the Parliaments furious pretences of reformation hath brought them to.* In this case the Parliament being accused of so heinous crimes, did unjustly betray themselves, if they should not lay the blame upon the Kings evill Counsellors, the onely enemies and interrupters of Parliaments. Neverthelesse the King takes this as a way of the Parliament to let them into their franke expressions of him and his actions, & takes all things spoken against his ministers, as spoken against himself, how miserable here is the condition of the Parliament, either they must sinke under unjust charges, or be censured for the reprochers of their King, nay they are undutifull, if they tell not the King himselfe, that he ought not to operate himselfe with the blame of his Counsellors.

The Parliament, because it could not obtain no equall Justice from the Court Caveliers, who are conceived to be the first movers of those sturres and tumults which happened at *Westminster*, did reserve the hearing of some of the contrary side it selfe, upon this it is objected, *that the Parliament incited those seditious, and protected the actors in it;* whereas they desire Justice yet, and that both sides may be brought fairely to an equall hearing, and before such hearing they desire that no parties may be condemned.

And whereas the Parliament, upon these rude commotions, are condemned as unheard and of that which is unproved and never can be proved, *That they levied Warre upon the King, and drove him away,* yet they desire that the meer imputation may not draw any further opposition to their proceedings, and the necessity of the State; for if the King could not stay at *London* with safety, yet being now in *Tork* in safety, he may coneuire with the advice of his Parliament; the distance of the place needs not cause any distance of affection, since the King conceives *He hath safe enemies, and assures himself of so many friends in Parliament.*

The Parliament says, *That none of its Members may be apprehended in case of suspensions,*

case

where

where no information or witnesses appear, to make good the Prosecution without acquainting the Parliament, if leave may be conveniently obtained. In opposition to this case is put, *Of a Parliament man, that rides from York to London, and takes a purse by the way*, the Parliament doth not privilege Robberies so done; for though no such thing be likely ever to be done, yet if it be, in that case the evidence of the fact in that instant, allows not only the apprehending but the casuall killing of such a Robber: Who sees not many differences betwixt such a case, and that of the five Members of the lower House, where neither Witnesses, nor Informers, nor Relaters, nor any particularity of crime could be produced? and yet by the same act the whole House might have been surprized: And all the world knows, That the impeached Members still suffer by that Charge, and yet can obtain no right against any Informers, though it be now converted to their disadvantage.

The Parliament does not deny the King a true reall Interest in any thing held by him, either *in jure Corona*, or *in jure Persona* yet meerly because it affirms, That in the same thing the State hath an Interest Paramount in cases of publike extremity; by vertue of which it may justly seize, and use the same for its own necessary preservation. Hereupon, the King replies, *That this utterly abolishes His Interest in all things so that by this device, He is made uncapeable, either of suffering wrong, or receiving right*: a strange violented wrested conclusion; and yet the Kings Interest in *Hull*, and in the lives of his Subjects, is not such an Interest as in other moveables, neither is the Kings interest taken away from him; the same things are still reserved for him, in better hands then he would have put them. The Parliament maintains its own Counsell to be of honour and power above all other, and when it is unjustly rejected, by a King seduced, and abused by private flatterers, to the danger of the Commonwealth, it assumes a right to judge of that danger, and to prevent it; the King sayes, *That this gives them an arbitrary, unlimited power to unsettle the security of all mens estates, & that they are seduceable, and may abuse this power, nay they have abused it*; and he cites the Anabaptists in *Germany*, and the 30. Tyrants at *Athens*. That there is an Arbitrary power in every State somewhere tis true, 'tis necessary, and no inconvenience follows upon it; every man has an absolute power over himselfe; but because no man can hate himselfe, this power is not dangerous, nor need to be restrained: So every State has an Arbitrary power over it self, and there is no danger in it for the same reason. If the State intrusts this to one man, or few, there may be danger in it; but the Parliament is neither one nor few, it is indeed the State it self; it is no good consequence, though the King make so much use of it, That the Parliament doth abuse power, because it may: The King would think it hard that we should conclude so against him, and yet the King challenges a greater power then Parliaments: and indeed if the Parliament may not save the Kingdome without the King, the King may destroy the Kingdome in despite of the Parliament; and whether then challenges that which is most Arbitrary, and of most danger? but the King sayes, *This Parliament has abused their power*. (I wish Kings had never abused theirs more) And the Parliament answers, *That this is but his nude avirment, and in controversies that ought not to condemn private men, much lesse ought Parliaments to fall under it*. And as for Mr *Hooker*, he doth not say, That the Anabaptists in *Germany* did deceive Parliaments with their hypocrisie, and therefore inferre that Parliaments ought no further to be trusted: the stirres of the Anabaptists in *Germany* conclude no more against Parliaments, then the impostures of *Mahomet* in *Arabia* doe. And as for the 30. Tyrants of *Athens*, we know they were not so chosen by the people, as our Knights, Citizens, and Burgeses are, nor created or called by any Kings writ, as our Peeres are; nor did they so meerly depend upon their own good abearing, and the good liking both of King and State, as our Lords and Commons now do; neither had they so many equals & Rivals as both our Houses contain: we know their power was not founded on the consent of the Citizens, but the strength of souldiers; nor were their souldiers such as our Train Bands but

but meer mer cinarie of desperate, or perhaps no Fortunes, whose Revenue was rapine, whose trade was murther: I feare they were more like our Cavilers at *York*, then the *Militia* at *London*: Were our new *Militia* any other then our old Trayne Bands? or our new Lieutenants and Deputies, any other then the same Lords and Gentlemen, with very little variation, which before were very well reputed of, both by King and Commons, and not yet by either excepted against? or did the whole fate of the Kingdome depend meerly upon the new *Militia*? this new device of an *Aristocracie* might seeme the more plausible; but as things now stand, this new *Aristocraticall* Fabrick cannot seeme to any impartiall man, but as empty a shadow, and ayrie a dreame as ever mans fancy abused it selfe withall.

The Parliament sayes, *That the Kings power is fiduciary, and not to be used against the Kingdome, but for it only*: The King hereupon demands, *May any thing be taken from a man, because he is trusted with it? Or may the person himselfe take away the thing he trusts when he will, and how he will?* Our case of *Hull* is not so generall, The things there remaining in the Kings trust for the use of the Kingdome were Armes, and by consequence of more danger, then other kind of Chattels. And if I intrust my cloake to an others custody, I may not take it away againe by force; But if it be my sword, and there is strong presumption, that it may be drawne upon me, I may use any meanes to secure it.

The Parliament claimes a right of declaring, and interpreting Law. The King makes this question thereupon: *Is the Law it selfe subject to your Votes, that whatsoever you say or doe, shall be lawfull, because you declare it so? Am I a supream, and yet you above me? Must my power be governed by your discretion?* This is the Popes Arrogance, That all must submit their understanding, and Scripture it selfe, to his declaring power: And a case is put of the Irish Rebels, making themselves a major part in Parliament, and so voting against the true Religion, &c. In perspicuous, uncontroverted things, the Law is it owne Interpreter, and there no Judge is requisite, and the Parliament cannot be taxed to have declared Law by the Rule of their Actions; They have squared their Actions according to Law, They may be censured, but they cannot be convinced of any injustice. 'Tis true, In meer matters of State, the Parliament is not bound to strict Precedents at all times, but in matters of right and justice they have not deviated, either to the right hand, or to the left: Howsoever, In matters of Law and State both, where ambiguity is, some determination must be supream, and therein, either the Kings power and trust must be guided by the discretion of the Parliament, or else the Parliament, and all other Courts must be over-ruled by the Kings meer discretion; and there can be nothing said against the Arbitrary Supremacy of Parliaments, &c. but farre more upon better grounds, may be said against the Arbitrary Supremacy of the King. As for the Popes Arrogance, who undertakes to interpret Scripture where it wants no Interpreter, And in matters of meer opinion to usurpe over all mens consciences; As if he had an infallibility in his sole breast. He is not an instance so fitly to be alledged against Parliaments, as Princes: For 'tis very probable, That if the Church had not submitted it selfe to so slavish a condition under one man, but had been governed by some generall Junto of Divines fairely elected, it had never swerved into such soul-idolatry, and superstition, as it has done.

As for the case of *Ireland*, I conceive, 'tis improperly urged: For *England* and *Ireland* are one and the same Dominion, There is as true and intimate an Union betwixt them,

as betwixt *England* and *Wales*; And though by reason of remote scituation, they doe not meet in one and the same Parliament; yet their Parliaments, as to some purposes, are not to be held severall Parliaments: And therefore, if the Papists in *Ireland* were stronger, and had more Votes in Parliament then the Protestants; yet they would want authority to over-rule any thing voted, and established before in *England*. For the reason, why the minor part in all suffrages subscribes to the major is, That bloud may not be shed: For in probability, The major part will prevaile, and else strife and bloud-shed would be endlesse: Wherefore the major part in *Ireland*, by the same reason ought to sit downe and acquiesce, because *Ireland* is not a severall Monarchy from *England*; Nor is that a major part of *Ireland* and *England* too; for if it were, it would give Law to us, as we now give Law there; and their Statutes would be of as much vertue here, as ours are there.

The Parliament, *In case of extreame danger, challenges an Authority of setting the Militia in sure hands, and removing doubtfull persons, if the King Will not be intreated to doe it of himselfe?* The King sayes, *This is to put his intrusted power out of Himself into others, and so to devest and disable Himselfe for the protection of His people.* This is a strange mistake: The Parliament desires no removall of that power which was in the King, but that which was in such or such a Substitute. And how does this devest and disable the King? And if the King sayes, That He has a better opinion of such a Substitute, then of an other, Though the Parliament conceive otherwise, Then what does He but prefer his owne private opinion before the most honourable of all Councels, before the voice of the whole Kingdome? What higher Law then have we remaining, then the Kings will? And as for his account to God, will it be easier for him to pleade, That He used such an instrument of His own meer discretion against publike advise, if things prove unhappy, then that He followed the most noble Councell and such whose lives, fortunes, and interests, were most deeply concerned in it? And as for these absurd, unreasonable, incredible suppositions of the injustice, and treasons of Parliaments, as if they were lesse careful of the publike good, then single Rulers, Though it be spoken in derision, wise men perhaps may be not so apt to laugh in applause, as in contempt of it: For how has the Parliament removed the rub of all Law out of it's way, because it assumes to it selfe to be higher then any other Court, and to be in declaring Law, as farre beyond the Kings single countermands in Parliament, as other inferiour Courts are out of Parliaments? Or how has it erected a new upstart Authority to affront the King, and maintaine an Aristocraticall usurpation, when the maine body of the *Militia* is still the same as it was, and such as the King professes no suspicion of, and no alteration is of the heads thereof, except only in some few popishly inclined, or not publicly so honoured, and confided in as they ought? And when the same Allegiance is performed, The same Supremacy of power confessed to be now in the King over the *Militia*, as has ever bin? Nay, what ground can there be for this imaginary usurpation, when the King professes, He fixes not that traitorous designe upon both, or either House of Parliament, being most confident of the Loyalty, good Affections, and Integrity of that great Body? Is the main Body of the Kingdome loyall? Is the main Body of the Parliament loyall? Is the King true to Himself? And is all his great party of Clergy-men, Courtiers, Souldiers, &c. constant? And yet is there a machination in hand, to introduce Aristocraticall usurpation odious to all men, which neither Kingdome, Parliament, King, nor all the Royallists can oppose? What a strange unfathomable machination, and worke of darkness is this? *But this is said to be done by cunning force, absence, or accident.* If it be by cunning,

ning, then we must suppose that the Kings party in Parliament has lost all their Law, policy, and subtilty; And that all the Parliament, except some few, are lull'd asleepe by *Mercuries* Minstrellie; or that some diabolicall charme has closed up all their various eyes. If it be by force, then we must suppose that our Aristocraticall heads carry about them great store of that Serpents teeth which yeelded heretofore so sudden and plentiful a harvest of armed men, being but cast into the furrowes of the earth, Though their armies have bin hitherto invisible; yet we must suppose, That they are in a readinesse to rise upon the first Alarum beaten. If it be by absence, then we must suppose, That this Aristocraticall machination is easily yet to be prevented; for 'tis not a hard matter to draw a full appearance together, and that we see has bin done lately by the order of the House it selfe; Nay, we see 'tis not the House, but the opposite part that desires to scatter, and divide, and draw away, and as much as in them lies to hinder a full Assembly: And therefore, This is not the way. If it be by accident, then we must be contented to expect, and have a little patience; Fortune is not alwayes constant to one certain posture, nor doe the Celestiall bodies confine themselves to one unaltered motion.

The Parliament requests of the King, *That all great Officers of State, by whom publike affaires shall be transacted, may be chosen by approbation, or nomination of the great Councell.* The King takes this as a thing maliciously plotted against him, as a proposition made in mockery of him, as a request which He cannot yeeld to, without shewing Himself unworthy of the trust which Law reposes in him, and of his descent from so many great and famous Ancestors: He conceives, He cannot performe the Oath of protecting His people if he abandon this power, and assume others into it. He conceives it such a Flower of the Crowne, as is worth all the rest of the Garland, not to be parted withall upon any extremitie of conquest or imprisonment; nor for any low sordid considerations of wealth, and gaine whatsoever. He conceives, that if he should passe this, He should retaine nothing but the ceremonious Ensignes of Royalty, or the meer sight of a Crowne and Scepter (nay, the stocks being dead the twigs would not long flourish) but as to true and reall power, He should remaine but the outside, the Picture, the signe of a King. Could this be, If all Parliaments were not taken as deadly enemies to Royalty? The substance of the request seems to be no more but this, That it would please the King to be advised by Parliaments, rather than His owne meer understanding, or any inferiour Councillors in those things which concerne the liberties, and lives of the whole people. And how could this request seem equall to a demanding of the Crowne, to a dethroning of the King, and to a leaving of the Kingdome destitute of protection, if Parliaments were not supposed mortall enemies to Princes, and Princes not supposed, but openly declared enemies to Parliaments: If the King chuse such a man Treasurer or Keeper out of his owne good liking only, or upon recommendation of such a Courtier, here he is devested of no power; but if it be upon the recommendation of the whole Kingdome in Parliament, who in all probability can judge better, and are more concerned, this is an emptying himselfe of Majesty, and devesting himselfe of Power. Ordinary reason cannot suggest otherwise hereupon, but either Parliaments affect not Kings, nor their owne good, nor would make good elections, or else Kings affect not Parliaments, nor the Kingdomes good, and therefore they oppose such elections, meerly because they are good: But let us observe the Kings reason against Parliamentary Elections; For first, *He conceives them preiudiciall for the people:* Secondly, *Dis honourable to himselfe.*

Man is by nature of restless ambition. As the meanest vassall thinks himself worthy of some greatnesse: so the most absolute Monarch aspires to something above his greatnesse.

nesse. Power being over-obtained by haughty minds, quickly discovers that it was not
 first aimed at meely to effect noble Actions, but in part to insult over others ; and am-
 bitious men thirst after that power which may doe harme, as well as good; nay, though
 they are not resolved to doe harme, yet they would be masters of it, ---- *Qui nolunt
 occidere quemquam* ---- *Posse volunt*. And yet let this power be added, the minde still
 remains unfilled, still some further terrestriall omnipotence, a sharing with God, and
 surmounting above mortall condition is affected. Our Law has a wholesome Maxime,
 That the King may only doe that which is just; but Courtiers invert the sense of it, and
 tell him, That all is just which he may doe, or which he is not restrained from doing
 by Law. Such and such things Princes ought not to doe, though no Law limited them
 from doing thereof; but now those things which by nature they abhorre to do, yet they
 abhorre as much to be limited from. That disposition which makes us averse from cru-
 elty and injury, we account a noble and vertuous disposition; but that Law which shall
 restraine us from the same, is stomacked at, and resisted, as a harsh bit to put into our
 mouths, or bonds upon our armes. *Antoninus Pius* is greatly renowned for communica-
 ting all weighty affaires, and following publike advice and approbation in all great ex-
 pedients of high concernment, and he was not more honourable then prosperous ther-
 in. Had he been a meer servant to the State, he could not have condescended further ;
 and yet if he had done necessarily, what he did voluntarily, the same thing had bin in
 the same manner effectuell ; for 'tis not the meer putting or not putting of Law, that
 does alter the nature of good or evill. Power then to doe such an evill, or not to doe
 such a good, is in truth no reall power, nor desired out of any noblenesse, but rather
 windy arrogance ; and as it is uselesse to men truly noble, so to men that love evill for
 evil ends 'tis very dangerous. What will *Nero* more despise, then to condescend as *Anto-
 ninus* did? yet 'twere more necessary that *Nero* were limited then *Antoninus*; for exces-
 sive power added to *Nero's* cruelty, serves but as oyle powred upon flame. When Prin-
 ces are as potent as vicious, we know what Ministers swarm about them ; and the end
 is, That as vaste power corrupts and inclines them to ill Councels, so they perish at last
 by Councillors worst of all. 'Tis pretended that Princes cannot be limited from evill,
 but they may be disabled from doing good thereby, which is not alwayes true ; and yet
 if it were, the people had better want some right, then have too much wrong done
 them ; for what is more plaine then this, That the *Venetians* live more happily under
 their conditionate Duke, then the *Turks* doe under their most absolute Emperours.
 Nevertheless, if we consider the noble *Trophees* of *Rome* which it gained under Con-
 suls, & conditionate Commanders, we may suppose that no defect at all could be in that
 popular and mixt government. And our neighbours in the *Netherlands* are a good in-
 stance; for they being to cope with the most puissant and free Prince of Christendome,
 being but the torne relique of a small Nation, yet for their defence, would not put
 themselves under a *Dictatorian* power ; but they prepared themselves for that so terri-
 ble encounter, under the Conduct of a Generall much limited. Neither have those
 straitned Commissions yeelded any thing but victories to the States, and solid honour
 to the Princes of *Orange* ; and what more, the mightiest Monarchs of our age have at-
 chieved or enjoyed, besides the filling of a phantasticall humour with imaginary gran-
 dour. I speak not this in favour of any alteration in *England*, I am as zealously addicted
 to Monarchy as any man can, without dotage ; but I know there are severall degrees of
 Prerogatives Royall, some whereof have greater power of protection, and lesse of op-
 pression, and such I desire to be most studious of : In some things I know 'tis dange-

rous to circumscribe Princes; but in others there may be great danger in leaving them to their pleasure, and scarce any hope at all of benefit; and amongst other things, the choice of publike Officers, if the State have (at least) some share therein with the King, what considerable inconvenience can happen thereby to the State or King, is not in me to foresee; but if it have no share, experience sufficient teacheth us what great disasters may happen. And so for the dissolving and dissolving of Parliaments; if the Parliament divide some part of that power with the King, I see great good, but no harm at all that can ensue, either to weaken the Crown, or disturb the subject thereby.

But it will be said in the next place, *If this disables not the King from protecting the Subject, yet it diminishes his own Right, and leaves him but the shadow of Royalty.* This is grounded upon a great mistake; for some men think it a glorious thing to be able to kill, as well as to save, and to have a kind of a Creators power over Subjects: but the truth is, such power procures much danger to ill Princes, and little good to any; for it begets not so much love as fear in the subject, though it be not abused; and the fear of the subject does not give so perfect a Dominion as love. Were *Hannibal, Scipio, &c.* the lesse honoured or beloved because they were not independent? surely no, they were the lesse feared, and for the same cause the more honoured and beloved. Or were *Alexander, Pyrrhus, &c.* the more honoured or beloved, because they were independant? I believe the contrary, and that they had lived more gloriously, and died lesse violently, if a more moderate power had rendered them lesse insolent in their own thoughts, and lesse feared in other mens. Was *Cesar* the private man lesse successfull in his Warres, or lesse dear in all his Souldiers eyes, or lesse powerfull in his Countrey-mens affections, then *Cesar* the perpetuall Dictator? No, if the Imperiall Throne of the World added any thing to *Cesar*, 'twas not excellence, nor true glory, 'twas but the externall complements of pomp and ostentation, and that might perhaps blow up his mind with vanity, and fill the people with jealousy, it could not make *Cesar* a nobler, gallanter, greater *Cesar* then he was. I expect no lesse then to be laught at at Court, and to be held the author of a strange paradox, by those men which stick not to say, That our King is now no more King of *Scotland*, then he is King of *France*, because his meer pleasure there, is not so predominant in all cases of good and evill whatsoever: but I regard not those fond things which cannot see in humane nature what is depraved in it, and what not, and what proceeds from vain, and what from true glory; and wherein the naturall perfection of power and honour, differs from the painted rayes of spurious Majesty and Magnificence. To me the Policy of *Scotland* seems more exquisite in poynt of prerogative, then any other in *Europe*, except ours: And if the splendor, and puissance of a Prince consists in commanding religious, wise, magnanimous, warlike subjects, I think the King of *Scotland* is more to be admired then the king of *France*; and that he is so, to the meer ingenuity of Government, I ascribe it. But some will allow, *That to follow the patterne of Antoninus freely, and voluntarily, as he did, is not dishonourable in a Prince; but to be under any Obligation or Law to do so, is ignoble.* And this is as much as to say, That Law, though good, yet *quatenus* Law is burthenous to mans nature; and though it be but so to corrupted nature, in as much as it restrains from nothing, but that which nature in its purity would it self restrain from; yet corrupted nature it self is to be soothed and observed, I have done with this poynt: 'twas spoken in honour of *Hen. 7.* That he governed his subjects by his Laws, his Laws by his Lawyers. and (it might have been added) his subjects, Laws and Lawyers by advice of Parliament, by the regulation of that Court which gave life and birth to all Laws. In this Policy is comprized the

whole act of Sovereignty; for where the people are subject to the Law of the Land and not to the will of the Prince, and where the law is left to the interpretation of sworn upright Judges, and not violated by power; and where Parliaments superintend all, and in all extraordinary cases, especially betwixt the King and Kingdome, do the faithfull Offices of Umpirage, all things remain in such a harmony, as I shall recommend to all good Princes.

The Parliament conceives that the King cannot apprehend any just fear from Sir *John Hotham*, or interpret the meer shutting of *Hull* gates, and the sending away of Arms and Ammunition in obedience to both Houses, to be any preparation for Warre and Invasion against him at *York*, and therefore they resolve to raise Forces against those Forces which the King raises to secure himself from Sir *John Hotham*. *The King hereupon charges the Parliament of levying Warre against Him, under pretence of His levying Warre against them.* This is matter of fact and the World must judge whether the Kings preparation in the North be onely futable to the danger of Sir *John Hotham* or no; and whether the Parliament be in danger of the Kings strength there or no: Or whether is more probable at this time, that the King is incensed against the Parliament, or the Parliament against the King: or that the King is more intentive to assaile the Parliament, or the Parliament the King. 'Tis true, the King abjures any intention of making Warre against his Parliament; but what he intends against the malignant party in or out of Parliament, is not exprest: and the King abjures invasive War against them; but whether he think not himself first invaded already, is not exprest; and the specifying of a faction in Parliament of some few malignants, secures none; for none can plead force, and none ought to plead folly in Treasons of this nature, and the major part of the Houses can neither plead absence or dissent; and those which can, must not be their own purgators. Besides, the act of Sir *John Hotham* is disputable; the King adjudges it Treason, the Parliament adjudge it no Treason; and the King has not declared whether he will refer this to the tryall of the sword only, or to some other tryall; and if so, To what kind of tryall the judgement of a Parliament shall be submitted: If we call another Parliament to judge of this, so we may appeal in *infinitum*; and why another should be cleerer then this, we cannot imagine: If we could constitute a higher Court for this appeal, so we might do in *infinitum* also; but we know no higher can be imagined: and if we appeal to a lower, that were to invert the course of nature: and to confound all Parliaments for ever; if we call all the Kingdom to judge of this, we do the same thing as to proclaim Civill Warre, and to blow the Trumpet of generall confusion: And if we allow the King to be the sole, supream competent Judge in this case, we resigne all into his hands, we give lives, liberties, Laws, Parliaments, all to be held at meer discretion? For there is in the interpretation of Law upon the last appeal, the same supremacy of power requisite, as is in making it; And therefore grant the King supream interpreter, and 'tis all one, as if we granted him to be supream maker of Law, and grant him this, and we grant him to be above all limits, all conditions, all humane bonds whatsoever. In this Intricacy therefore, where the King and Parliament disagree, and judgement must be supream, either in the one or other, we must retire to ordinary justice, And there we see, if the King consent not with the ordinary Judge, the Law thinks it fit, that the King subscribe, rather then the Judge.

And if this satisfie not, We must retire to the principles of Nature, and there search, whether the King or Kingdome be to be lookt upon as the efficient, and finall cause, and as the proper Subject of all power. Neither is the path of supremacy indangered hereby;

hereby; for he that ascribes more to the whole universality, then to King; yet ascribes to the King a true supremacy of power, and honour above all particulars: Nor is our allegiance temerated, For when the Judge on the Bench delivers Law contrary to the Kings command; This is not the same thing, as to proceed against the Kings person, upon any judgement given against him. The King as to His own person, is not to be forcibly repelled in any ill doing, nor is He accountable for ill done, Law has only a directive, but no coactive force upon his person; but in all irregular acts where no personall force is, Kings may be disobeyed, their unjust commands may be neglected, not only by communities, but also by single men sometimes. Those men therefore that maintaine, That all Kings are in all things and commands (as well where personall resistance accompanies, as not) to be obeyed, as being like Gods, unlimitable, and as well in evill, as in good unquestionable, are sordid flatterers. And those which allow no limits but directive only, And those no other but divine and naturall; And so make all Princes as vast in power as the Turk, (for He is subject to the directive force of God, and natures Laws;) and so allow subjects a dry right without all remedy, are almost as stupid as the former. And those lastly, That allow humane Laws to oblige Kings more then directive, in all cases where personall violence is absent, and yet allow no Judges of those Laws, but the King Himself, run into absurdities as grosse as the former.

I come now to those seven doctrines, and positions, which the King by way of recapitulation layes open as so offensive-----And they run thus:

1. *That the Parliament has an absolute indisputable power of declaring Law, So that all the right of the King and people depends upon their pleasure.* It has been answered, That this power must rest in them, or in the King, or in some inferiour Court, or else all suites must be endless, and it can no where rest more safely then in Parliament.

2. *That Parliaments are bound to no Precedents.* Statutes are not binding to them, why then should Precedents? Yet there is no obligation stronger then the Justice and Honour of a Parliament.

3. *That they are Parliaments, and may iudge of publike necessity without the King, and dispose of any thing.* They may not desert the King, but being deserted by the King, when the Kingdom is in distress, They may judge of that distress, and relieve it, and are to be accounted by the vertue of representation, as the whole body of the State.

4. *That no member of Parliament ought to be troubled for treason, &c. without leave.* This is intended of suspicions only, And when leave may be seasonably had, and when competent accusers appear not in the impeachment.

5. *That the Sovereigne power resides in both Houses of Parliament, the King having no negative voyce.* This power is not claimed as ordinary, nor to any purpose, but to save the Kingdome from ruine, and in case where the King is so seduced, as that He prefers dangerous men, and prosecutes His loyall Subjects.

6. *That levying forces against the personall commands of the King, (though accompanied with his presence) is not levying warre against the King: But warre against His authority, though not person, is warre against the King?* If this were not so, The Parliament seeing a seduced King, ruining Himself and the Kingdome could not save both, but must stand and look on.

7. *That according to some Parliaments, they may depose the King.* 'Tis denyed, that any King was deposed by a free Parliament fairly elected.

To stand in comparison with these, I shall recite some such positions as the Kings papers offer to us; And they follow thus.

1. **T**hat regal power is so derived from God and the Law, as that it has no dependance upon the trust, and consent of man; and the King is accountable therefore to God and His other Kingdom, not to this; And is above the determination of Parliaments, and by consequence boundlesse.

2. That the King is supreme indefinitely, viz. As well universis, as singulis.

3. That the King has such a propriety in His Subjects, Towns, Forts, &c. As is above the propriety of the State, and not to be seized by the Parliament, though for the publike safety.

4. That so farre as the King is trusted, He is not accountable how he performs, So that in all cases the Subject is remediable.

5. That the being of Parliaments is meerly of grace, So that the King might iustly have discontinued them, and being summoned, they are limited by the Writ, and that ad consilium only, and that but in quibusdam arduis, And if they passe the limits of the Writ, they may be imprisoned. That if the King desert them, they are a voyde assembly, and no honour due to them, nor power to save the Kingdome, That Parliamentary priviledges are no where to be read of, And so their representation of this whole Kingdom is no priviledge, nor adds no Majesty, nor authority to them. That the maior part in Parliament is not considerable, when so many are absent, or dissent. That the maior part is no maior part, Because the fraud, and force of some few over-rules them. That Parliaments may do dishonourable things, nay treasonable: Nay, That this hath been so blinded by some few malignants, That they have abetted treason in Sir John Hotham, Trampled upon all Law, and the Kings prerogative, And sought to enslave the whole Kingdom under the Tyranny of some few, And sought the betraying of Church and State, And to the same erected an upstart Authority in the new Militia, and levied Warre upon the King, under pretence that he levyes Warre upon them. That Parliaments cannot declare Law, but in such and such particular cases legally brought before them. That Parliaments are questionable, and tryable elsewhere.

These things, we all see, tend not only to the dissolution of this Parliament, but to the confusion of all other, And to the advancing of the King to a higher power over Parliaments, then ever He had before over inferiour Courts. Parliaments have hitherto been Sanctuaries to the people, and banks against Arbitrary tyranny; But now the meer breath of the King, blasts them in an instant; and how shall they hereafter secure us, when they cannot now secure themselves? Or how can we expect justice, when the meer imputation of treason, without hearing, tryall or judgement, shall sweep away a whole Parliament; nay all Parliaments for ever? And yet this is not the depth of our misery, For that private Councell which the King now adheres to, and preferres before Parliaments, will still inforce upon our understandings, That all these doctrines, and positions tend to the perfection of Parliaments; And all the Kings forces in the North, to the protection of Law and liberty. I find my Reason already captivated, I cannot further---

FINIS.

